

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
ANTHONY CASTILLO,

Plaintiff,  
-against-

CITY OF NEW YORK, WALTER RIVERA,  
NIEL O'DONNELL, AND JOHN OR JANE DOE  
1-10,

Defendants.

ANALISA TORRES, District Judge:

On April 30, 2021, Defendants Rivera and O'Donnell filed a suggestion of death of Plaintiff on the record, with service on Plaintiff's attorney via ECF. ECF No. 12; *see also* ECF No. 13. Under Federal Rule of Civil Procedure 25(a)(1), after a party files a suggestion of death on the record, a party or the decedent's successor or estate must file a motion to substitute within 90 days of the suggestion of death, or the Court "must" dismiss the action. Fed. R. Civ. P. 25(a)(1); *Martin v. NYC Crane Hoist & Rigging, LLC*, No. 19 Civ. 3789, 2021 WL 1725043, at \*2 (S.D.N.Y. Mar. 22, 2021). Here, no motion to substitute has been filed in the over-90 days since the suggestion of death was entered. Moreover, on August 17, 2021, the Court issued an order directing Plaintiff's estate or successor to show cause in writing by August 24, 2021, why the case should not accordingly be dismissed, and stating that if they failed to do so, the Court would dismiss the action. ECF No. 14. No such motion has been filed.

Therefore, this action is DISMISSED under Rule 25(a)(1). *See Lopa v. Safeguard Properties Mgmt., LLC*, No. 14 Civ. 3193, 2018 WL 3104456, at \*12 (E.D.N.Y. May 16, 2018), *report and recommendation adopted*, No. 14 Civ. 3324, 2018 WL 3019875 (E.D.N.Y. June 18, 2018), and *report and recommendation adopted*, No. 14 Civ. 3193, 2018 WL 3094940 (E.D.N.Y. June 22, 2018).

The Clerk of Court is directed to close the case.

SO ORDERED.

Dated: August 26, 2021  
New York, New York

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21 Civ. 1520 (AT)

**ORDER**



ANALISA TORRES  
United States District Judge